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DATE MAILED: 06/28/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/848,642	05/03/2001	Shunpei Yamazaki	SEL 258 7227		
7:	590 06/28/2006	EXAMINER			
COOK, ALEX, MCFARRON, MANZO,			SCHECHTER, ANDREW M		
CUMMINGS & MEHLER, LTD. Suite 2850			ART UNIT	PAPER NUMBER	
200 West Adams St.			2871		
Chicago II 6	50606				

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.  O9/848,642  YAMAZAKI ET AL.  Examiner  Andrew Schechter  2871  The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						<u> </u>				
Examiner			Application N	).	Applicant(s)	V				
Andrew Schechter The MAILING DATE of this communication appears on the cover sheet with the correspondence address Pariod for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.			09/848,642		YAMAZAKI ET AL.					
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#### **DETAILED ACTION**

Page 2

#### Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10 April 2006 has been entered.

# Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 3. Claims 91 and 95 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamazaki et al., US 2001/0040655.

[The applied reference has a common assignee and common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it

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constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.]

[This rejection could possibly be overcome by a certified translation of the applicant's priority document, perfecting a claim to a date before 16 April 2001.]

Yamazaki discloses [see Fig. 1, for instance] an electro-optical device comprising a first substrate with a thin film transistor [TFT, see paragraph 0082], a pixel electrode [169] electrically connected to the TFT, a second substrate [10] opposed to the first substrate, at least a first colored layer [12] and a second colored layer [13] formed on the second substrate wherein they partly overlap each other to form a light shielding portion [16], said light shielding portion overlapping at least a channel formation region of the TFT [paragraph 0082], a leveling film [14] covering the first and second colored layers and the light shielding portion, wherein the leveling film has a thickness of 1 μm or more [paragraph 0085], and a liquid crystal interposed between the substrates wherein the leveling film is interposed between the liquid crystal and the first and second colored layers. Claim 91 is therefore anticipated.

There can be a step where the first colored layer overlaps the second colored layer [see Fig. 2, for instance], so claim 95 is also unpatentable.

## Allowable Subject Matter

4. Claims 21-24, 76, 77, 85-90, 92-94, and 96 are allowed.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Schechter whose telephone number is (571) 272-2302. The examiner can normally be reached on Monday - Friday, 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Nelms can be reached at (571) 272-1787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew Schechter
Primary Examiner

**Technology Center 2800** 

25 June 2006